IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1207 OF 2004

Divyesh R. Muni ...Appellant
vs.
The Municipal Corporation of
Greater Mumbai ...Respondent

Ms Sangita Musle h/f Mr.V.J.Hegde for the Appellant
Mr.J.J.Xavier for the Respondent-Corporation.

CORAM: A.S.OKA, J.
DATED: AUGUST 3, 2006.

P.C.:

1. Heard Advocates for the parties. Today the Advocate for the Appellant has tendered on record an Affidavit of the Appellant which is marked 'X' for identification. Paragraphs 1 to 4 of the Affidavit read thus :

"1. I say that I have preferred the above appeal being aggrieved by the Order of the learned Trial Judge dated 8/9/2004 passed in the B.C.C.C.L.C. Suit No.2184 of 2001, on the grounds more particularly detailed in the Appeal Memo. I have also issued the above Civil Application for injunctions pending the hearing and the final disposal of the Appeal.

2. I say that the suit premises and the land beneath the suit premises belongs to Maharashtra Housing and Area Development Authority (MHADA), which is a planning authority within the meaning of the

Maharashtra Regional and Town Planning Act.

3. I, thus pray for the leave of this Hon’ble Court to make application for regularization of the works mentioned in the impugned notice before the Maharashtra Housing and Area Development Authority within two weeks.

4. I further pray for liberty to withdraw the above appeal".

2. Shri Xavier for the Respondent-Corporation disputes the correctness of the statement made in the Affidavit that the Maharashtra Housing and Area Development Authority is the Planning Authority and contends that the Respondent-Corporation is the Planning Authority. However, it is not necessary to resolve the dispute as the Appellant desires to withdraw the Appeal and the Appellant desires to apply for regularisation of the offending structure. It will be for the Appellant to apply to the appropriate Authority for regularisation of the structure. To enable the Appellant to apply to the appropriate authority and obtain suitable order, sufficient time can be granted to the Appellant.

3. Hence I pass the following order :

i) Appeal is dismissed as withdrawn with no order as to costs.

ii) The dismissal of the Appeal will not prevent the Appellant from making application for regularisation of the offending structure to the appropriate authority in accordance with law. To enable the Appellant to apply for regularisation and to obtain suitable order from the appropriate authority, the Respondent will not demolish the offending structure for a period of sixteen weeks from today.

. Parties to act upon an authenticated copy of this order.

Judge.